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# To Prove What Did Not Happen

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By William H. Stringer

There is no way of telling how soon the presidential commission investigating the Kennedy assassination can close shop, Earl Warren, Chief Justice of the United States, remarks as he pauses from work in his oak-paneled, high-ceilinged chambers.

The reason: The commission must do everything it can to run down — and disprove if false — all the bizarre accusations that clustered around the tragedy: that President Kennedy's assassination was a Castro plot, that it was a Khrushchev conspiracy, that a high official in the United States Government masterminded it, or that (as the mother of Lee Harvey Oswald asserted) the Central Intelligence Agency (CIA) was involved.

"It is infinitely easier to prove that something happened, such as that Oswald shot the President, than it is to prove that a dozen other things didn't happen," the Chief Justice observes, attired in a business suit rather than the black robes of office.

## Reports Examined

In the commission quarters, not far down the street from the majestic white-marble Supreme Court Building, lawyers are plowing through voluminous reports bearing on the tragic days—documents from the Federal Bureau of Investigation, the CIA, the Secret Service, other government agencies.

This winnowing is taking much longer than does the interviewing of key witnesses.

The Oswald case has only underscored the Chief Justice's

long-held view that the United States must look to its ethics and its morality if it is to survive, and succeed as a world leader. Speaking at the Jewish Theological Seminary of America in 1962, he proposed the development of the profession of "ethics counselors," who would be available to business leaders and other professions.

"The business executive, the labor leader, the academician, the politician, need counsel as to what is right no less than the husband and the wife . . . whether plans conceived are socially useful, right, and appropriate under the circumstances," Chief Justice Warren said.

## Critics Answered

It is not suggested that an ethics or morals counselor would have been able to "reach" Lee Harvey Oswald and so avert the Kennedy assassination—not if the assassin were mentally deranged. Yet a larger morality and compassion in the United States would diminish the bitterness that begets bitterness, many have observed.

Two years ago Chief Justice Warren declared: "Our country stands at the apex of world power, or world resources. This is a great privilege, but it is a privilege carrying with it enormous responsibility.

"The responsibility which is ours is to stimulate mankind to conduct its affairs with wisdom, with conscientiousness, with a view to the future, with an understanding of the public need, with a view to the long perspectives of history, and,

above all, with great compassion for the individual."

The lawlessness evident in the United States today, the Chief Justice believes, is born of a lack of ethics. Without ethics, which means morality, no amount of laws passed will hold crime in check.

Chief Justice Warren is aware that there has been some criticism of his willingness to accept the chairmanship of the presidential investigation commission, and indeed of his willingness to answer, however briefly, the questions of reporters when hearings have concluded for the day.

His reply to the first criticism is a quotation from President Cleveland: "There are times when you are confronted with conditions and not theories." Supreme Court Justices should indeed be detached from politics and they should avoid outside assignments, ordinarily.

"But the President impressed upon me, the Chief Justice says, "that this should be a strong and independent commission, and he was so earnest about the need that I felt obligated as a good citizen to accept the job."

## Criticism Stilled

As for contact with the press, if the Chief Justice had attempted to be secretive and noncommittal, criticism might have been even more vigorous. More important, there would have been a lot more speculation in the press, much of it wide of the mark.

Chief Justice Warren, who was a district attorney and state attorney general in California besides being three times Governor, feels much at home with an investigating commission.

He has spent full days with the commission for the past

work" at night. More than half of his daytime working hours have been engaged in commission affairs since Jan. 1, plus a good bit of reading of reports at home at night.

Meanwhile, though the Chief Justice does not talk about this at all, his assignment to probe the assassination of the President has stalled some of the criticism which has flooded in on him, including proposals for his impeachment, stemming from the Supreme Court's

opinions on racial segregation and the rights of individuals in anti-Communist investigations.

When he was asked earlier this year for his reaction to these attacks, he replied firmly, "My reaction is that I just don't discuss it."

One has the impression that the Chief Justice believes deeply in what he is doing. The Supreme Court has been willing to act where Congress was unable to move, as in the 1954 school-desegregation decision, and just this week, in the ruling that congressional districts must be as nearly equal in population size as possible.

Four years ago he commented that he was happy to have traded a life of politics for a life of "reflection and contemplation." Today, having reached 72 and completed 10 years on the court he is eligible for retirement at full salary (\$35,000), but he has no thought of quitting soon. His recreations are still simple—fishing and duck-hunting in California with his sons, and college spectator sports—watching from the bleachers.

When he was first appointed to the court by President Eisenhower, he called his outlook "progressive conservatism." Since then he has been identified with the liberal wing of the court. A working colleague suggests that his approach is that of "basic humanity," with a deep concern for the "predicament of human beings."



By Emil Weiss

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Chief Justice of United States

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